

810-7-1-.27 Non-participating Manufacturer's Bond (including Importers, if Applicable).

(1) Pursuant to Act No. 2014-341, which amends Title 6, Chapters 12 and 12A, Code of Alabama 1975, any non-participating manufacturer (or importer, if applicable) wishing to be considered for listing on Alabama's Directory of Cigarettes Approved for Stamping and Sale shall first obtain and provide the required bond each quarter to the Alabama Department of Revenue.

(2) The bond must be a good and sufficient bond executed by a surety company licensed and authorized to do business in Alabama and shall be conditioned to pay the escrow requirement as well as any penalties or other charges under Title 6, Chapters 12 and 12A.

(3) The non-participating manufacturer's bond shall be posted for the benefit of the Commissioner, in accordance with the provisions of Section 6-12A-5 (f), and it shall be conditioned that the non-participating manufacturer shall fully comply with the escrow obligations.

(4) A bond is due for each calendar quarter. The bond shall be posted or otherwise due at least 10 days in advance of each calendar quarter as a condition to the non-participating manufacturer (or importer, if applicable) and its brand families being included in Alabama's Directory of Cigarettes Approved for Stamping and Sale for that quarter. The first bond is due by December 20, 2014 for the first quarter of 2015.

(5) The amount of the bond shall be the greater of:

(a) the greatest required escrow amount due from the non-participating manufacturer or its predecessor for any of the 12 preceding calendar quarters or

(b) \$25,000.

(6) Failure to timely provide the bond in strict compliance with subsection (f) of Section 6-12A-5 and the regulations relating thereto, shall result in the non-participating manufacturer's (or importer, if applicable) name and brand(s) not being included in, or deleted from, Alabama's Directory of Cigarettes Approved for Stamping and Sale.

(7) If a non-participating manufacturer that posted a bond has failed to make or have made on its behalf deposits equal to the full amount owed for a quarter within 15 days following the due date for the quarter under subsection (e) of Section 6-12A-5, the Commissioner may execute a claim upon the bond in the amount equal to any remaining amount of the escrow due including any applicable penalties or other charges allowable by law.

(8) Amounts the Commissioner or the State collects on a bond shall be deposited into the General Fund for the benefit of the State and shall reduce the amount of escrow due from that non-participating manufacturer. Escrow obligations above the amount collected on the bond remain due from that non-participating manufacturer and any importer liable as provided in Subsection (b) of Section 6-12-3.

(9) The bond executed by the surety company on behalf of the non-participating manufacturer (or importer, if applicable) shall provide the following information:

- (a) The true legal name of the party for whom a bond is being sought.
- (b) The company name on the bond must match the name on the non-participating manufacturer's Escrow certification and Tobacco Products Manufacturer's (TPM) certification.
- (c) The city, state, zip/country code and country in which the non-participating manufacturer (or importer, if applicable) is located.
- (d) The name and address of the surety company providing the coverage.
- (e) The issue date of the bond.
- (e) The original signatures of the principal (company), agent of the surety company, and Alabama resident agent.
- (f) The bond must be accompanied by an original power of attorney, indicating that the agent is authorized to execute the bond on behalf of the surety company.
- (g) The bond and power of attorney must have the same issue date.
- (h) The telephone number of the surety company.
- (i) The bond number assigned by the surety company.

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Authority: Sections 40-2A-7(a) (5), 6-12A-3, 6-12A-5 and 6-12A-7(d), Code of Alabama 1975

History: New rule: Filed August 27, 2014, effective October 1, 2014.